



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,526	12/21/2001	David C. Turner	VTN-570	5895
27777	7590	02/13/2004	EXAMINER	
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			BENNETT, RACHEL M	
			ART UNIT	PAPER NUMBER
			1615	

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/029,526

Applicant(s)

TURNER ET AL.

Examiner

Rachel M. Bennett

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) 26-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/24/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

The examiner acknowledges receipt of the IDS filed 1/2/03.

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-31, 41-44, 47-49, 51-52 on October 24, 2003 is acknowledged. Applicants elect the following species, coated zeolites, which applicant believe are represented by claims 1-25 and claims 26-31. However, the examiner refers to the instant claims wherein claims 1-25 are drawn to a coating comprising at least on silane and claims 1, 26-31 are drawn to a coating comprising at least one hydrophobic monomer. Therefore, the examiner maintains claims 1-25 and 1, 26-31 are drawn to two distinct coatings and are patentably distinct. Thus, claims 1-25 will be examined. The requirement is still deemed proper and is therefore made FINAL.

Specification

Claim Rejections - 35 USC § 103

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barry et al. (EP 1050314A1) and further in view of Dxiabo et al. (US 515117).

Applicants claim an antimicrobial lens comprising a coated zeolite, specifically wherein the zeolite is coated with a composition comprising at least one silane.

Barry et al. disclose antimicrobial ocular lenses made from a polymeric material that contains an inorganic antimicrobial agent in order to make the lens resistant to microbial growth in the body or on the surface of the lens. The inorganic antimicrobial agent is a zeolite, which contains antimicrobial metal ions. Lenses prevent microbial contamination and growth thereon by incorporating the inorganic antimicrobial agent into the lens material. See abstract. The polymeric material contains a silver zeolite, wherein the zeolite is between about 0.1 to 3 wt. % of the polymeric material. Barry discloses the antimicrobial agent may be present primarily or even substantially wholly, at or near the external surface of the lens body (e.g. as a coating, or may be substantially uniformly distributed throughout the lens body). Barry desires the zeolite to be retained on or in the lens without quick leaching in large quantities into an aqueous media such as an ophthalmic solution or the eye. See cols. 6 and 7. The antimicrobial contact lens can be prepared by applying a coating solution containing an antimicrobial agent onto the lens or by dipping the contact lens into the coating solution. These coating and spraying processes are known generally in the art. The coating material includes polymers. The concentration of antimicrobial agent used in the coating solution is between 0.01% and 20%. See col. 10. Barry does not specifically disclose the coating material to be silane.

Dziabo et al. disclose contact lenses having antimicrobial properties. The contact lenses are made from materials which comprise polymeric materials and effective antimicrobial components. See abstract. Dziabo discloses a system for treating a preformed contact lens to provide an effective antimicrobial component. A reactable component is preferred. Such

Art Unit: 1615

reactable components include an active (antimicrobially active) portion and a functional portion. The functional portion of the reactable component is such as to interact, preferably chemically react, with the material of the preformed contact lens to bond the antimicrobial component to the contact lens. One very effective class of reactable components includes silanes. See cols 5-6.

Both Barry and Dziabo disclose contact lenses with antimicrobial properties. One of ordinary skill in the art would have been motivated to combine the teachings of Barry and Dziabo because of the expectation of enhancing the bonding of antimicrobial zeolite to the contact lens as taught by Dziabo and providing a contact lens without quick leaching of large quantities of the antimicrobial into an aqueous media as taught by Barry. Therefore, it is the position of the examiner it would have been obvious to one of ordinary skill in the art at the time the invention to have combined the teachings of Barry and Dziabo by coating the zeolite taught by Barry with the reactable component, silane taught by Dziabo.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel M. Bennett whose telephone number is (571) 272-0589. The examiner can normally be reached on Monday through Friday, 8:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1615

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rmb

James M. Spear
JAMES M. SPEAR
PRIMARY EXAMINER
ART UNIT 1615